

IDAHO PUBLIC UTILITIES COMMISSION

Case No. IPC-E-04-8, IPC-E-04-10, Order No. 29682

January 11, 2005

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Commission denies reconsideration request from small-power producers

BOISE – The Idaho Public Utilities Commission denied a request from wind and geothermal power developers to reconsider a November order that establishes parameters for power contracts between regulated utilities and small-power producers.

U.S. Geothermal, a 15-megawatt geothermal facility in Cassia County, and two wind power developers, Bob Lewandowski, east of Boise, and Mark Schroeder, Bliss-Hagerman, said the commission's November order included PURPA contract provisions never before used that would discourage the development of renewable energy.

The energy crisis of the late 1970s prompted Congress to pass the Public Utility Regulatory Policies Act, or PURPA. Its purpose is to encourage the promotion and development of renewable energy technologies as alternatives to burning fossil fuels or the construction of new power plants. PURPA requires large electric utilities like Idaho Power to buy electricity generated by small-power producers who obtain Qualifying Facility status. The rate utilities must pay qualifying facilities (QFs) is set by the state commission. The rate, sometimes called avoided-cost rate, is to be equal to the cost the electric utility avoids if it would have had to generate the power itself or purchase it from another source.

The small-power producers objected to an Idaho Power proposal to pay other than the commission-set posted rates when the output from the developers' projects is less than 90 percent or more than 110 percent of projected output. Idaho Power claimed that when output is less than 90 percent it must find power from other sources that can be more expensive. When output is more than 110 percent, Idaho Power said it might have to sell the energy in the surplus market or reduce output at a more economic generation plant.

In its November order, a 2-1 majority on the commission ruled that when developers deliver in excess of 110 percent or below 90 percent of projected output that they be paid 85 percent of the market rate or the PURPA contract rate, whichever is less, for that portion of the output above the 110 percent or below 90 percent.

Developers said penalties should not be based on market price and said the commission's solution severely penalizes a developer if production is only one-tenth of 1 percent below the 90 percent target.

The commission said performance bands are necessary because both parties to a contract must have reciprocal and enforceable obligations.

Ruling on the reconsideration request, the same 2-1 majority on the commission, said developer fears that the performance band could lead to small-power producers actually owing regulated utilities money are not correct. "Projects failing to produce at least 90 percent of their monthly energy commitments are paid non-firm energy rates capped at the rate that would have otherwise been paid under the contract," the commission said.

In her dissent last November, Commissioner Marsha Smith said the incentive for all small-power producers is to provide all the power they can. "They need to be paid to stay in operation and if they do not produce, they do not get paid. The banding proposal would operate as a penalty, not an incentive," she said. On the reconsideration petition, Smith said she would have granted the petitioners request for further hearings to explore the reasonableness of a performance band and a market-based rate for surplus and shortfall energy.

While adopting the 90-110 performance band, the commission allowed developers more opportunities to revise their output estimates, creating a greater likelihood of staying within the performance band. The commission also lessened the severity of the financial penalties proposed by Idaho Power in the event of a shortfall in energy output.

Documents related to this case can be accessed on the commission's Web site at www.puc.idaho.gov. Click on "File Room," then "Electric Cases," and scroll down to Case No. IPC-E-04-8.

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